

## Message

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**From:** Tanimura, Erin [Tanimura.Erin@epa.gov]  
**Sent:** 4/13/2021 3:12:10 PM  
**To:** Gray, David [gray.david@epa.gov]  
**Subject:** ACTION: Region 6 Weekly Update April 13

David – I've made some updates to the report this week, including recent activities on the first two entries.

Also of note: last week, we included an update on the comment letter to USACE re: SpaceX, Boca Chica, TX going out. That letter ended up being delayed a few days (the comment period was extended) and the letter has now been sent out. I've removed the proposed weekly on this matter as it included no new information except for the delayed date/extended comment period.

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### **R6 Weekly Update April 13, 2021**

#### **Hot Topics**

##### **Denka Performance Elastomer, LaPlace, Louisiana**

On April 6, EPA issued a CAA Section 114 Information request to Denka seeking information regarding facility operations and activities that contributed to elevated levels of chloroprene concentrations near the plant during twelve 24-hour periods from October 2020 through February 2021. Each of these levels were greater than 10 micrograms per cubic meter, and multiple readings were detected at the Fifth Ward Elementary School. Denka has 15 days to respond to the request. EPA continues to monitor the ambient air around Denka's neoprene manufacturing facility through the Continuous Air Monitoring Program and plans on operating the monitoring program through April 2021. Upon quality control review, EPA publishes chloroprene data on its public website.

On April 8, the Lambert Law Firm who represents the local citizens wrote to Region 6 requesting reimplementaion of the Community Ambient Air Monitoring program in LaPlace.

##### **Ethylene Oxide Facilities, Louisiana and Texas**

Region 6, in cooperation with the Louisiana Department of Environmental Quality, conducted calls with five ethylene oxide-emitting facilities in Louisiana to get additional information to complete technical assessments associated with each facility and to support future public/community outreach efforts with LDEQ. Region 6 is starting the process to schedule calls with three Texas facilities.

**Ex. 5 DP / Ex. 7(A)**

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**Ex. 5 DP / Ex. 7(A)** Additionally, Region 6 is preparing a letter to several organizations in Texas and Louisiana that have written to EPA with interest in ethylene oxide this year, to initiate communication and provide updates on our work.

##### **National Energy Advisory Team**

On April 12, Region 6 hosted the National Energy Advisory Team biweekly meeting, providing opportunities for EPA Headquarters and Regional team members to share insights and discuss projects and related energy topics. The main topics of discussion were the upcoming Interstate Oil and Gas Compact Commission (IOGCC) Business Meeting scheduled for May 17-18 and a possible follow-up EPA/IOGCC Taskforce meeting, as well as proposed legislation on orphan and abandoned well plugging.

### **City of Fort Smith, Arkansas**

On March 26, the City of Fort Smith, Arkansas, filed a Motion for Clarification with the District Court for the Western District of Arkansas in response to the Court's March 19 Opinion on the dispute over injunctive relief requirements set forth in the parties' 2015 Consent Decree. In the Motion, the City requests that the Court clarify its decision on interpretation issues regarding whether "remediation" of pipe and manhole defects identified in the Remedial Measures Plan can be accomplished by monitoring of the pipe/manhole defects as part of the City's Capacity, Management, Operations and Maintenance (CMOM) program instead of only by repair, rehabilitation, or replacement of the pipe/manhole defects. The United States filed a response to the Motion on April 9, requesting that the Court reject the City's proposed interpretation and clarify that the CD requires that certain defects must be remediated—either through replacement or repair—and not simply monitored as part of a CMOM program.

### **City of Houston, Harris County, Texas**

On April 1, the Court entered the Consent Decree regarding the judicial action against the City of Houston involving violations of the Clean Water Act. The violations primarily involved effluent limit violations of applicable Texas Pollutant Discharge Elimination System permits at 39 POTWs and sanitary sewer overflows throughout the sewer collection system. As part of the terms of the CD, Houston shall pay a civil penalty of \$4.4 million dollars and has agreed to complete extensive injunctive relief measures to the sewer collection system and many wastewater treatment plants. Houston estimates that it will spend \$2 billion over a period of 15 years to implement the corrective measures and improvements.

### **Public Water System Supervision Grants, Texas**

Region 6 sent a letter to TCEQ informing them that routine compliance sampling/monitoring by a state on behalf of a public water system is not an eligible activity for the use of Public Water System Supervision (PWSS) grant funds. TCEQ has funded this activity with PWSS grant funds for several years. The letter asks TCEQ to amend its grant workplan right away so that all activities funded with the grant are eligible. While this is a final Agency determination, the letter allows TCEQ to file a written dispute of the action. Region 6 held a call with TCEQ on this matter on April 8 prior to sending the letter the same day.

### **Nationwide Permit 401 Certification Denial, New Mexico**

On April 5, the U.S. Army Corps of Engineers wrote a response letter to the New Mexico Environment Department's February 22 request that the Corps reverse its denial of NMED's 401 water quality certification. In summary, the Corps' response to NMED stated that its decision remains unchanged due to NMED's requirements in the 401 Certification undermining the finality of the Certification and inconsistency with EPA's regulations for implementing 401 and the Clean Water Act. The Corps also stated it is committed to working with NMED to create efficiencies for the individual water quality certification requests that will result due to the Certification's denial.

### **Los Alamos National Laboratory, Los Alamos County, New Mexico**

On April 8, Region 6 met with Los Alamos National Laboratory (LANL) representatives to discuss progress on the New Mexico Environment Department's (NMED's) 401 Certification appeal process and the status of the storm water individual permit issuance. The state of New Mexico 401 included ten conditions of certification required to be included in the Final NPDES Permit, and LANL challenged all ten conditions of certification with the state of New Mexico. EPA will

## **Ex. 5 AC/DP**

### **Formosa Plastics Sunshine Project, St. James Parish, Louisiana**

The U.S. Army Corps of Engineers at the New Orleans District is reviewing a previously-authorized project in St. James Parish proposed by Formosa. The CWA 404 permit was suspended by the Corps after an NGO lawsuit challenged the issuance of the permit due to an incomplete review of project impacts, including air and environmental justice issues. The complainants submitted a letter to EPA on April 6 requesting that EPA take 404(c) action to prevent the permit from being issued. The permitted impacts would include approximately 80 acres of wetlands. Permit

applications have been completed for a related project for construction and maintenance of pipelines associated with this facility, but it has not been placed on public notice or forwarded to Region 6 for review.

#### **San Miguel Electric Cooperative, Christine, Texas**

On April 5, Region 6 participated in a call with HQ to get a better understanding of a citizen suit filed in the Western District of Texas against the San Miguel Electric Cooperative facility for allegations related to its handling of Coal Combustion Residual (CCR) wastes. Both HQ-Office of Resource Conservation and Recovery and HQ-Office of Enforcement and Compliance Assurance agreed that

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Region 6 and/or Texas Commission on Environmental Quality (TCEQ) will be looking into the facility and the concerns alleged in the complaint since the facility was identified by the Environmental Integrity Project as allegedly one of the top 10 worst in the country for CCR. Region 6 will coordinate with TCEQ to have the ORCR contractor conduct a review of the facility's CCR corrective measures assessment. We will monitor filings made in the citizen suit so that Region 6 and HQ can revisit if there is anything of concern from a policy standpoint that comes up that might need EPA intervention.

#### **Oil and Gas Program Authorization, Texas**

On March 30, Region 6 held a conference call with representatives of the Texas Commission on Environmental Quality to discuss updates and status of the transitional phase of the TCEQ's NPDES partial program authorization for oil and gas discharges. There is follow-up action regarding pending application modification requests submitted to Region 6 prior to the TCEQ's authorization for oil and gas activities. In accordance with the MOA, any modifications (without renewal) and/or variances will remain at Region 6. The Region is soliciting the State's recommendation and preference regarding transfer of three outstanding permit applications: 1) one minor permit modification not requiring Public Notice; 2) one major modification that would require Public Notice; and 3) one permit renewal.

#### **Major Decisions and Events**

##### **Transwestern Pipeline Company, LLC, Laguna Pueblo, Cibola County, New Mexico**

Region 6 is preparing to issue a Public Notice on a Draft Title V Permit Renewal, with issuance targeted for April 13. Transwestern Pipeline Company LLC, a division of Energy Transfer, has requested a renewal to the existing Title V operating Part 71 permit, which expired in February 2021. The facility is a natural gas compression and transmission facility which has been in operation since 1967 and has had no physical nor operational changes to the compressor station.

##### **Regional Haze SIP, Arkansas**

By April 14, Region 6 anticipates signature on a notice for a minor error correction to the regulatory text of the final rule approving the Arkansas Regional Haze Phase III State Implementation Plan (SIP) Revision and Arkansas Visibility Transport SIPs, which was published in the Federal Register on March 22, 2021. As published, the regulatory text in the final rule contains an error that omits a small portion of the amendatory instruction. The notice will correct this error and does not change the obligations already existing in the rule. The Office of the Federal Register has requested that Region 6 publish a correction notice signed by the Regional Administrator.

##### **Louisiana Other Solid Waste Incineration Negative Declaration**

By April 22, Region 6 anticipates a final action to accept the CAA section 111(d) negative declaration for incinerators subject to the Other Solid Waste Incineration units emission guidelines in Louisiana and amend the CFR in accordance with CAA requirements. No comments were submitted during the public comment period.

##### **Louisiana Visibility Transport SIP**

By April 30, Region 6 anticipates final action to approve the Louisiana Infrastructure SIP addressing visibility transport for the 2006 PM<sub>2.5</sub>, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide, 2012 PM<sub>2.5</sub> and the 2015 ozone NAAQS. The infrastructure SIP was submitted as required by CAA section 110(a)(2)(D)(i)(II). No adverse comments were received on the proposed approval.

April 14	Region 6 Tribal Operations Committee Meeting (virtual)
April 15	Region 6 Annual Tribal Summit (virtual) continues April 20, 22, 27, 29
April 20	Gulf Coast Air & Waste Management Association Annual Conference and Exhibition (virtual)
April 22	EarthX 2021 Earth Day Celebration (virtual)